

HOUSE JUDICIARY COMMITTEE

HB 370: To abolish the death penalty in Montana

My name is Karla Gray. I'm a former Chief Justice of the Montana Supreme Court, with you today as a private citizen—with a somewhat different background than most—to respectfully urge you to DO PASS HB 370 and abolish the death penalty in Montana.

As you consider HB 370, please think not just about the decision, but about the impacts of the decision this bill calls on each of you to make. For you, it's a question of yea or nay; green or red. It's your choice whether to keep the death penalty in Montana or to abolish it. Each of you will make that choice. And then the decision will be over—for you. But if you vote down HB 370—if you keep the death penalty—it's only the beginning for those who must implement your decision, those citizens and employees to whom you delegate the duty to carry out the death penalty as you have created it. And I can tell you from my own experience that traveling down the implementation road is an entirely different thing indeed. When a death case has begun, the impacts fall on law enforcement, courthouse workers, jurors, individual judges, members and staff of the Montana Supreme Court, corrections personnel, and on and on.

I believe I was a good Justice. I followed my oath—the same oath you take—and faithfully discharged the duties of my office, including the duties regarding the death penalty that you imposed on me. No constitutional infirmity being present, I affirmed the death penalties of the three people executed in Montana during my tenure at the Court. Put differently, I followed orders—your orders.

You know, it's not hard so hard to think about executing someone in the name of the State of Montana. But the "State" doesn't perform a single act which is required to kill a person upon whom the death penalty has been imposed. Citizens of Montana, in various capacities, take all the actions which result in these executions. The "State" doesn't say "yep, let's do it." The "State" doesn't take a person into the death chamber. The "State" doesn't perform the injection that results in a homicide. And yes, make no mistake about it, the death certificates of the three people executed according to law in Montana in recent years do list "cause of death" as "homicide." Tracking the language in your statutory definition of homicide, did I and many others—by our actions—purposely or knowingly cause the death of another human being? We did. We weren't prosecuted, because we took our actions pursuant to state law. But that is scant comfort against what I'm convinced is the very corrosive and dehumanizing toll on far too many Montanans who are involved in implementing the death penalty.

Please support HB 370 and get Montana out of the homicide business. Thank you for your consideration and your public service.